

AMENDED AGREED BOARD ORDER NO. 21-01

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Case No. ENF-19-00025

This Amended Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77 (Air Pollution Control). This Agreement is made by and between the Board and Louisville and Jefferson County Metropolitan Sewer District (MSD), a public body corporate and political subdivision, and is effective on the date of its adoption by the Board.

COMPANY: Louisville and Jefferson County
Metropolitan Sewer District
700 West Liberty Street
Louisville, Kentucky 40203

REGULATION INVOLVED:

District Regulation 1.13: Control of Objectionable Odors in the Ambient Air

NOTICE OF VIOLATION LETTER:

Case No. ENF-19-00025, dated November 4, 2019

BACKGROUND AND DISCUSSION:

MSD is a regional utility service that provides wastewater, stormwater and flood protection services to residents of Louisville and other surrounding counties. The Louisville Metro Air Pollution Control District (District) alleges that from July and August of 2019, MSD failed to control objectionable odors from storm drains and the Morris Forman Water Quality Treatment Center (Morris Forman) in the Chickasaw, California, and Park Du Valle neighborhoods. Residents of the neighborhoods complained to the District approximately 46 times during this timeframe. District compliance officers responded to the complaints and observed the odors coming from MSD storm drains and Morris Forman during their investigations.

To fully address the violations alleged above, the parties agree to this Order requiring MSD to develop and implement a county-wide Odor Control Master Plan with priority and focus in Phase I on the Morris Forman service area and the collection system between 9th Street and the Ohio River where the majority of odor complaints were received by the District. The parties further agree that MSD will develop an odor event outreach communications plan, a collection system maintenance/service schedule, and a publicly available complaint and MSD response log for all odor complaints.

In order to demonstrate compliance with this Order, MSD has created and filled a new position at MSD for an Odor Control and Biosolids Manager to, among other things, oversee and implement the Odor Control Master Plan and procured a contract in September of 2020 with AECOM, Inc. to provide MSD with technical services to implement the county-wide Odor Control Master Plans for Morris Forman and the collections system. MSD will also procure a contract with a communications firm to assist MSD with developing a communications plan. Such plan, at a minimum, will update MSD's website for odor control information; update an on-line odor complaint submission form; increase social media outreach; provide for a survey for concerned citizens to complete on odor related issues; and assist with a minimum of 5

community meetings throughout the county for MSD to inform residents of its odor control and minimization efforts, its complaint and response process, and to provide a forum for citizens to express concerns. If community in-person meetings can occur, MSD agrees to give priority for community meetings in the Morris Forman service area. Because of the COVID-19 pandemic, the Board recognizes that MSD may be required to conduct community meetings virtually rather than the preferred method of in-person meetings.

The parties recognize that it will take multiple years for MSD to develop and implement all the requirements addressed in this Order, however, in the interest of informing the Board and the public of the actions to be taken, MSD agrees to the timelines established in this Order. A public hearing was held before the Board on this proposed Order. Based upon the information presented at the hearing, the Board determines that the proposed resolution and requirements contained in this Order are reasonable under the circumstances.

In October 2021, MSD notified the District that completion of the construction on its Rotary Drum Dryer Trains had been delayed due to COVID-19. As a consequence, MSD requested an extension of time to complete Technical Memoranda No. 8: New Odor Control Conceptual Design and No. 9: Odor Control Conceptual Design and the Master Phase I Final Report as originally required.

NOW, THEREFORE BE IT ORDERED THAT:

1. MSD shall develop and implement a county-wide Odor Control Master Plan, which will be a phased multi-year project. Details of Phase I of the Odor Control Master Plan is addressed in #2 and #3 below. MSD shall provide final reports of subsequent phases to the Board as it completes those additional phases of the Odor Control Master Plan. Within 60 days of completion of each additional phase, such final reports are due to the Board and shall be posted on MSD's website for public availability.
2. With respect to Phase I of the Odor Control Master Plan, MSD shall provide the District with copies of seven Phase I technical memoranda to be released periodically to the District throughout all Four Quarters of 2021. MSD shall submit Technical Memorandum No. 8: New Odor Control Technology Recommendation by the end of the Third Quarter of 2022 and Technical Memorandum No. 9: Odor Control Conceptual Design by the end of Fourth Quarter 2022. Upon each release of the technical memoranda to the District, MSD shall also post the technical memoranda on its website for public availability.
3. MSD shall provide the Board with an Interim Final Report for Phase I Technical Memoranda Nos. 1 – 7 by the end of the Fourth Quarter of 2021 that will summarize the seven technical memoranda to include what has been completed to date and also include a schedule of work identified in those memoranda that remains to be completed. MSD shall provide the Board with a Final Report for Phase I for Technical Memoranda Nos. 8 – 9 by the end of the Fourth Quarter of 2022 that will summarize the remaining technical memoranda to include what has been completed to date and also include a schedule of work identified in Technical Memorandums 1 – 9 that remains to be completed. The Interim Final Phase I and Final Report Phase I shall be posted on MSD's website and available to the public upon completion.

4. MSD shall develop a county-wide communications plan. The scope of the communications plan will, at a minimum, include: updating its website page for odor control matters; updating and implementing a user friendly on-line odor reporting form for the public to submit its odor complaints to MSD; evaluating the possible referral of sewer odor complaints from the Smell My City App directly to MSD's twenty-four hour customer service representatives; updating a brochure addressing odor issues; increasing social media outreach for odor issues; scheduling at a minimum 5 community meetings to receive feedback from citizens regarding odor issues; and conducting a survey for residents to identify odor concerns. Within 60 days of the completion of the survey, results of the survey shall be summarized and submitted to the District and posted to MSD's website for public availability.
5. Within 60 days after the adoption of this Order, MSD shall advertise an invitation to accept bids for the procurement of a contract with a communications firm to assist with implementing the communications plan.
6. No later than 9 months' after the adoption of this Order, MSD shall prepare and submit an update to the Board of the status of the implementation of the communications plan including general deadlines for completion. Upon submittal of the update on the communications plan to the Board, MSD shall also post the update to its web site for public availability.
7. MSD shall document that it has cleaned/provided maintenance to all catch basins within its collection system by December 31, 2022. The Board and the public can view MSD's catch basin maintenance schedule and Standard Operating Procedures for sewer maintenance on MSD's website by accessing <https://louisvillemisd.org/odor>. If the link changes after the adoption of this Order, MSD shall notify the District within thirty days.
8. MSD determined that 109 of the 197 catch basins in the Park DuValle neighborhood, where the majority of District sewer odor complaints are received, are untrapped and may allow objectionable sewer odors to enter the ambient air. MSD will focus on repairing, rebuilding, or modifying those 109 catch basins or pipe systems in the Park DuValle neighborhood with catch basin traps or similar technology to substantially reduce sewer odors. MSD shall provide an annual report to the Board identifying those catch basins in the Park DuValle neighborhood that were repaired, rebuilt, or modified in the preceding year until all 109 untrapped catch basins are updated.
9. MSD shall provide a publicly available and user-friendly odor complaint and a corresponding response/resolution log on its website and it will be updated monthly. The Board and the public can view the odor complaint log on MSD's website by accessing <https://louisvillemisd.org/odor>. If the link changes after the adoption of this Order, MSD shall notify the District within thirty days.
10. MSD has reviewed this Order and consents to all its requirements and terms. MSD agrees to pay the cost of publishing legal notice of the public hearing.
11. In the event that it is necessary for the District to seek a court order to enforce this Order, MSD agrees to pay filing fees and costs of such action.
12. This Order fully resolves the violations alleged in Case No. ENF-APCD-19-00025 and as alleged above in this Order against MSD.
13. Neither this Order nor the actions taken hereunder shall constitute an admission by MSD of any wrongdoing regarding any of the matters referenced in this Order.

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Louisville Metro Air Pollution Control Board

By: Carl E. Hilton
Carl E. Hilton
Chairman

Date: _____

Louisville and Jefferson County
Metropolitan Sewer District

By: James A. Parrott
James A. Parrott
Executive Director

Date: 11-9-21

Louisville Metro Air Pollution Control District

By: Steven Gravatte
Steven Gravatte, P.E.
Compliance and Enforcement Manager

Date: 11/17/21

Approved as to form and legality:

By: Stacy Fritze Dott
Stacy Fritze Dott
Assistant County Attorney